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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/902,440	07/10/2001	Dennis R. Ulbrich	22578.3	5506
716	7590	04/23/2004	EXAMINER	
COX & SMITH INCORPORATED SUITE 1800 112 EAST PECAN STREET SAN ANTONIO, TX 782051536			LUGO, CARLOS	
			ART UNIT	PAPER NUMBER
			3676	

DATE MAILED: 04/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/902,440

Applicant(s)

ULBRICH ET AL.

Examiner

Carlos Lugo

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8,9 and 17-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8,9 and 17-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

1. This Office Action is in response to applicant's appeal brief filed on March 15, 2004.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claim 8,9,17,19 and 21 are rejected** under 35 U.S.C. 102(b) as being anticipated by US Pat No 4,699,395 to Hale.

Regarding claim 8, Hale discloses a locking apparatus (10) comprising a hasp bar and a lock body (padlock Figure 1) to lock the hasp bar.

The hasp bar is inserted into a slot (at 34) of a retainer bracket (30).

As to claims 9 and 21, Hale discloses that the locking apparatus has a handle (32) and the hasp bar engages the handle upon insertion of the hasp bar into the slot of the retainer bracket (Figures 1 and 2).

As to claim 17, Hale discloses that the locking body is key operated.

As to claim 19, Hale discloses that the hasp bar has a U shape bar.

4. **Claim 8,9,17,19 and 21 are rejected** under 35 U.S.C. 102(b) as being anticipated by US Pat No 4,283,073 to Gostomski et al (Gostomski).

Regarding claim 8, Gostomski discloses a locking apparatus (10) comprising a hasp bar and a lock body (padlock Col. 3 Lines 4-7) to lock the hasp bar.

The hasp bar is inserted into a slot (64) of a retainer bracket (30).

As to claims 9 and 21, Gostomski discloses that the locking apparatus has a handle (52 and 60) and the hasp bar engages the handle upon insertion of the hasp bar into the slot of the retainer bracket (through 62).

As to claim 17, Gostomski discloses that the locking body is key operated (a common padlock or the like).

As to claim 19, Gostomski discloses that the hasp bar has a U shape bar (a common padlock or the like).

5. **Claim 8,9,17 and 21 are rejected** under 35 U.S.C. 102(b) as being anticipated by US Pat No 5,322,316 to Wheeler.

Regarding claim 8, Wheeler discloses a locking apparatus (Figure 5) comprising a hasp bar (49) and a lock body (50) to lock the hasp bar.

The hasp bar is inserted into a slot (43) of a retainer bracket (1).

As to claims 9 and 21, Wheeler discloses that the locking apparatus has a handle (73) and the hasp bar engages the handle upon insertion of the hasp bar into the slot of the retainer bracket (through 73).

As to claim 17, Wheeler discloses that the locking body is key operated.

6. **Claim 8,9,17,19 and 21 are rejected** under 35 U.S.C. 102(b) as being anticipated by US Pat No 2,204,882 to Berluti.

Regarding claim 8, Berluti discloses a locking apparatus (Figure 1) comprising a hasp bar and a lock body (padlock L) to lock the hasp bar.

The hasp bar is inserted into a slot (at 32) of a retainer bracket (8).

As to claims 9 and 21, Berluti discloses that the locking apparatus has a handle (23) and the hasp bar engages the handle upon insertion of the hasp bar into the slot of the retainer bracket (Figure 1).

As to claim 17, Berluti discloses that the locking body is key operated.

As to claim 19, Berluti discloses that the hasp bar has a U shape bar.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 8 and 17 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Prior Art of record (Figures 1-4) in view of US Pat No 3,780,546 to Longenecker.

The Prior Art fails to disclose the use of a hasp bar insertable into a slot of the retainer bracket and means to lock the hasp bar in the slot.

Longenecker teaches that is known in the art to have a hasp bar (18) inserted into a slot on a retainer bracket (5) and means (15) to lock the hasp bar to the retainer bracket.

It would be obvious to one having ordinary skill in the art at the time the invention was made to use a padlock, as taught by Longenecker, into a locking apparatus as described by the Prior Art, in order to lock the locking apparatus.

9. **Claims 8,17 and 19 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Prior Art in view of US Pat No 5,052,203 to Van Cuyk.

The Prior Art fails to disclose the use of a hasp bar insertable into a slot of the retainer bracket and means to lock the hasp bar in the slot.

Van Cuyk also teaches that is known in the art to have a hasp bar (50) inserted into a slot on a retainer bracket (30 and 40) and means (48) to lock the hasp bar to the retainer bracket. Also, Van Cuyk teaches that the hasp bar has a U shape bar.

It would be obvious to one having ordinary skill in the art at the time the invention was made to use a padlock, as taught by Van Cuyk, into a locking apparatus as described by the Prior Art, in order to lock the gooseneck trailer hitch.

10. **Claims 18 and 20 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 4,699,395 to Hale in view of US Pat No 4,380,160 to Hoffman.

Regarding claim 18, Hale fails to disclose that the lock body is a combination lock body.

Hoffman teaches that is known in the art use a combination lock body (50, Col. 4 Lines 42-47).

It would be obvious to one having ordinary skill in the art at the time the invention was made to have to use a combination lock body, as taught by Hoffman, into a device as described by Hale, because it will not affect the locking engagement of the elements and it will perform as well as a common lock body (padlock).

As to claim 20, Hale discloses that the hasp bar has a U shape bar.

11. **Claims 18 and 20 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 4,283,073 to Gostomski et al (Gostomski) in view of US Pat No 4,380,160 to Hoffman.

Regarding claim 18, Gostomski fails to disclose that the lock body is a combination lock body. Gostomski discloses the use of a common padlock or the like (Col. 3 Lines 4-7).

Hoffman teaches that is known in the art use a combination lock body (50, Col. 4 Lines 42-47).

It would be obvious to one having ordinary skill in the art at the time the invention was made to have to use a combination lock body, as taught by Hoffman, into a device as described by Gostomski, because it will not affect the locking engagement of the elements and it will perform as well as a common lock body (padlock).

As to claim 20, Gostomski discloses that the hasp bar has a U shape bar (a common padlock or the like).

12. **Claim 18-20 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,322,316 to Wheeler in view of US Pat No 4,380,160 to Hoffman.

Wheeler fails to disclose that the lock body is a combination lock body and that the hasp bar has a U shape.

Hoffman teaches that is known in the art use a combination lock body (50, Col. 4 Lines 42-47) having a U shape hasp bar.

It would be obvious to one having ordinary skill in the art at the time the invention was made to have to use a combination lock body, as taught by Hoffman, into a device as described by Wheeler, because it will not affect the locking engagement of the elements and it will perform as well as a common lock body (padlock).

Also, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have a U shape hasp bar, as taught by Hoffman, into a device as described by Wheeler, because the change in shape of the bar will not affect the locking of the handle and the locking apparatus.

13. **Claims 18 and 20 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 2,204,882 to Berluti in view of US Pat No 4,380,160 to Hoffman.

Regarding claim 18, Berluti fails to disclose that the lock body is a combination lock body.

Hoffman teaches that is known in the art use a combination lock body (50, Col. 4 Lines 42-47).

It would be obvious to one having ordinary skill in the art at the time the invention was made to have to use a combination lock body, as taught by Hoffman, into a device as described by Berluti, because it will not affect the locking engagement of the elements and it will perform as well as a common lock body (padlock).

As to claim 20, Berluti discloses that the hasp bar has a U shape bar.

Response to Arguments

14. In view of the appeal brief filed on March 15, 2004, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) File a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) Request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

In the appeal conference it was noted some informalities. For example, it was noted that it is unclear what the applicant is claiming as his invention. Claims 8 recites "A locking device for a gooseneck trailer hitch having a bracket defining a slot in which an extension of a hitch ball engagement plate is slidably disposed" and claim 21 recites "A locking device for a gooseneck trailer hitch having a bracket defining a slot in which an extension of a hitch ball engagement plate is slidably disposed and having a movable latch handle adjacent said retainer bracket".

Looking at the applicant's arguments, the applicant believes that he is claiming a combination of a gooseneck trailer hitch with a common padlock (lock body and hasp bar). However, these limitations after the word "for" are considered as intending use of the locking apparatus.

Therefore, for examination, the invention is considered as a locking apparatus having a lock body and hasp bar (a common padlock). The fact that is or not for a gooseneck trailer hitch is not considered.

Also, some of the previous rejections were withdrawn and new ones were made (See rejection above).

The finality of the previous action filed on September 10, 2003 is withdrawn.

Conclusion


15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number is 703-305-9747. The examiner can normally be reached on 9-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

Carlos Lugo
Examiner
Art Unit 3677

April 16, 2004.


ROBERT J. SANDY
PRIMARY EXAMINER